

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JEROME JUNIOR WASHINGTON,)	
)	Civil Action No. 17 – 988
Plaintiff,)	
)	
v.)	District Judge Joy Flowers Conti
)	Magistrate Judge Lisa Pupo Lenihan
SUPERINTENDENT ROBERT)	
GILMORE, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION

Currently pending before the Court is a Motion to Dismiss Plaintiff’s Amended Complaint for Improper Joinder filed by the DOC Defendants on October 25, 2018. (ECF No. 53.) In accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court, the Motion was referred to a United States Magistrate Judge.

On June 12, 2019, the magistrate judge filed a Report and Recommendation (“R&R”) recommending that the Motion to Dismiss be granted in part and denied in part. (ECF No. 71.) Specifically, it was recommended that the motion be granted as to claims two, three, four, six, ten and eleven and that the court strike those claims from the Amended Complaint as violative of Federal Rule of Civil Procedure 20. It was recommended that the motion be denied as to the allegations contained in claims one, five, seven, eight and nine and that the court allow those claims to proceed for further review. A written objections deadline for registered ECF users was set for June 26, 2019, and the deadline for unregistered ECF uses was set for July 1, 2019.

Objections were filed by the DOC Defendants on June 21, 2019 (ECF No. 72) to which the court ordered plaintiff Jerome Junior Washington (“Plaintiff”) to respond by July 8, 2019. (ECF No. 73.) In lieu of a response, Plaintiff filed his own written objections on July 5, 2019. (ECF No. 74.) Plaintiff also filed what he titled a “Second Response to Defendants[’] Objection[s] to the Court[’]s Report and Recommendation” on August 13, 2019. (ECF No. 77.) Neither of these filings, however, are comprehensible.

In resolving a party’s objections, the court conducts a *de novo* review of any part of the R&R with respect to which proper objections were filed. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions. *Id.*

The DOC Defendants object to the magistrate judge’s R&R on the basis that the case should proceed only as to claims five and eight because unbeknownst to them at the time the Motion to Dismiss was filed, the allegations in claims one, seven and nine are the subject of lawsuits filed by Plaintiff at CA Nos. 18-341 (claim one), No. 18-343 (claim seven), and No. 18-337 (claim nine).

The court finds that the DOC Defendants’ objections are now moot. Specifically, since the issuance of the R&R on the DOC Defendants’ Motion to Dismiss in this case, the magistrate judge issued R&Rs in CA No. 18-341, No. 18-343 and No. 18-337, each recommending the dismissal without prejudice of the claims in those cases that are identical to claims one, seven and nine in this case, and those R&Rs were adopted by the court on September 5, 2019. As such, the duplicative litigation issue presented by the DOC Defendants no longer exists. Therefore, after careful *de novo* review of the record, together with the R&R and objections thereto, an appropriate order adopting the R&R will be entered.

Dated: September 5, 2019

By the court:

/s/ Joy Flowers Conti

Joy Flowers Conti

Senior United States District Judge

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(Via CM/ECF electronic mail)